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**Sent:** Wednesday, May 05, 2004 4:51 PM  
**To:** EFAST2@DOL.GOV  
**Cc:** Brooke Lubben; Lorri Ahrendt; Frank McArdle; Nancy Newman  
**Subject:** Attn: EFAST RFC

Please indicate receipt of this email by return reply.

We respectfully submit the attached comments on the proposed changes to the ERISA Filing Acceptance System (EFAST). Hewitt Associates is a global management consulting and employee benefit delivery firm, and our comments reflect our practical experience with assisting a large number of plan administrators in preparing annual report filings. We hope you will find our comments and suggestions to be helpful.

The following Adobe Acrobat file contains the full text of Hewitt Associates' comment letter on the proposed changes to EFAST:

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On behalf of Hewitt Associates LLC ("Hewitt"), we submit these comments on proposed changes to the ERISA Filing Acceptance System (EF AST) to be known in the future as EF AST2.

#### Who We Are

Hewitt is a global management consulting and employee benefit delivery firm. We are one of the largest providers of outsourced employee benefit plan administration, serving over 18,000,000 outsourcing participants. Hewitt consults on and assists clients with filing the Form 5500 series. Last year our Form 5500 consultants assisted over 500 clients with approximately 1,700 government filings.

#### General Comments

Hewitt commends the Department of Labor (DOL) for their continued efforts to reduce the burden and problems associated with paper-based filings while continuing to develop an effective electronic filing process for the Form 5500 series. In general, we support such paperless initiatives and solutions. We are concerned, however, that the proposed changes address only selected topics and do not present a comprehensive structure for an effective electronic filing process.

We believe more development is needed to build an Internet or Web-based electronic filing process that encourages electronic filing. The current electronic filing system is burdensome and appears to provide most, if not all, of the benefit to the recipient. To make electronic filing a widely accepted practice, an effective and efficient process needs to be created that benefits filers as much as recipients.

Hewitt supports the development of a Web-based repository-type system that allows multiple parties to enter and authenticate information. It must address the electronic filing obstacles of the past while providing clear incentives for filers to convert to the electronic process. As this is a highly technical and ever changing field, the DOL should consider the benefits of having a third party host the site. This will allow the market to support user demands for upgrades and additional features.

Finally, we are concerned about the cost and transitional burdens that will be placed on administrators (including employers) under the terms of the proposed EFAST2 process.

As a result, we urge the DOL to:

- Focus on developing a Web-based electronic filing prototype;
- Insure that the system addresses past filing impediments and encourages transition to the electronic process;
- Use a pilot group to test the prototype in order to identify problems and solutions;
- Set a realistic transition timeline following a pilot of the program; and
- Avoid establishing deterrents (such as filing fees and the requirement to use only

government-printed forms for paper submissions) as part of the process, at least until a usable and effective electronic filing system is in place.

#### Method of Filing

Hewitt applauds the efforts of the DOL to realize the full benefits of E-government and improve the overall quality of Form 5500 series filings by trying to resolve electronic filing obstacles. However, we remain concerned with the method.

According to the proposed changes, the DOL suggests that future Form 5500 series filings will be submitted in one of three ways; 1) electronically on the Web; 2) on the Web using software developed by third parties; or 3) on paper using only government-printed forms.

As stated earlier, Hewitt supports the development of a Web-based system or software which allows submissions via the Web. We assist a large number of clients with the preparation of their Form 5500 filings and we were intrigued by the electronic initiatives contained in the original EFAST. However, we were unable to utilize the available electronic process for a variety of reasons. Our greatest obstacles were as follows:

- The transmissions needed to be made via modem which was too slow and time consuming.
- Large volumes of paper still needed to be produced to obtain client reviews and signatures; therefore, the electronic process did little to reduce the paper burden for either the client or third-party administrator.
- There were logistical problems with obtaining multiple electronic signatures.
- As a third party in charge of assembling forms and documents, we received much of the information in paper form. It was burdensome to transcribe the information into the proper format for electronic transmission.

We are confident many of these problems may be resolved through Web-based technology. To be successful, Hewitt believes it is imperative that EF AST2:

- Stores draft information in a repository until final submission.
- Allows multiple providers to contribute information while addressing security and editing issues. This may require a tracking system that notifies a coordinator of changes made to the draft filing, or, at a minimum, documents access and changes to the site;
- Provides access to the plan administrator and third-party filing coordinators while preventing some information (such as that received from actuaries and auditors) from being amended;

- Accepts information from a variety of software formats;
- Resolves electronic signature issues and provides an authorization process for plan administrators to submit the filing in final form;
- Considers how records will be maintained and how filings may be amended; and
- Provides a printable receipt and copy of the filing submitted.

Our greatest concern is that a Web-based repository system varies so drastically from the electronic filing methods of the past, it is impossible to foresee the problems that may be encountered. Hewitt proposes once a prototype is in place, a pilot group should test it for several years prior to making it available to the general public. Hewitt is interested in participating in any such pilot program.

Finally, with respect to the last option of submitting paper based filings on government printed forms, we do not think that requirement should be part of this process. Although the ultimate goal will be to encourage transition to the electronic filing systems, deterrents and penalties should not be proposed until electronic submissions are proven to be a success.

Furthermore, requiring government-printed forms will arguably cause problems for the recipients as well. First, the forms will not contain the 2D barcode available on the machine printed forms. Second, if a significant number of filers choose not to use the electronic filing method, processing these forms will take considerable time.

#### Simplification of the Electronic Signature Procedure and Improved Handling of Third-Party Attachments and Attestations

Hewitt agrees the current electronic signature process is unduly burdensome. The final solution should allow for quick access to a PIN and password, as well as a quick turnaround in the case of a forgotten PIN or password.

The most significant challenge will be to develop a repository system that allows multiple signatures on a single filing and addresses the problems associated with third-party attachments and attestations.

With respect to the auditors' reports, the DOL proposes three alternatives, all of which involve the plan administrator obtaining and retaining a signed paper copy in the plan's records. The electronic version is then transmitted as part of the 5500 filing in one of three ways: 1) the plan administrator receives an electronic version of the report which is attached to the electronic filing; 2) the plan administrator transcribes the information into the electronic filing; or 3) the paper version is scanned as an image and transmitted as a portable electronic document (such as a .pdf file). With respect to the Schedule B filing, the DOL proposes only the first and second option, not the portable electronic document alternative.

Each of these alternatives has its drawbacks. If information is retyped, it will introduce additional errors and will require follow-up. If the file is required to be in electronic format, it will necessitate the purchase of software for filers. Finally, if scanned files are required, additional hardware will be necessary. Since each alternative has its shortcomings, we suggest that various alternatives be made available.

#### Mandatory Electronic Filing

As stated above, Hewitt takes the position that electronic filing cannot be mandatory until it is a tried and tested process. Furthermore, to reduce the cost and burden associated with conversion, any future mandatory requirements should be a multi-phased process allowing adequate transition time.

Hewitt questions the purpose of continuing to refine and require specific paper-based formats (such as the 2004 Schedule SSA process) when the ultimate goal is to move to mandatory electronic filing. We believe that the DOL should not encourage or require administratively difficult changes to the current paper-based process if mandatory transition to an electronic process is the ultimate goal.

#### Filing Fees

Hewitt thinks it is premature to discuss the possibility of a filing fee for ongoing paper submissions. We further note that virtually all plan sponsors will react negatively to an imposed fee as the filing itself is already a burdensome government requirement.

It appears one of two things may eventually happen: 1) electronic filing will be required thus eliminating the need to have a filing fee for a paper-based system; or 2) electronic filing will be optional and the DOL may want to consider a filing fee for paper submissions to encourage use of the electronic system. Either way, it is too early in the process to debate the pros and cons of a filing fee. Such a discussion should take place once an effective electronic system is developed and utilized by a much larger population.

#### Improved Consistency of Treatment for Paper and Electronic Filings

While Hewitt commends the DOL's desire to treat electronic and paper filers consistently, we disagree with an approach that may require paper submissions no later than four months after the close of the plan year (April 30th for calendar year plans).

We recognize this process may assist the DOL with equalizing treatment of the two filing methods from an edit and validity test perspective. However, it will result in extremely disparate treatment from an administrative burden perspective. Plan administrators using a paper method will simply have a much shorter processing window. They will be put under increased pressure to obtain information in a shorter amount of time in order to make a timely filing. Furthermore, the proposed new deadline does not take into consideration a time extension, which is a frequent and often necessary administrative requirement.

A four-month filing deadline is an unreasonably short period of time and will make it virtually impossible for plan administrators to make timely paper filings. For defined benefit plans, this early filing date may cause problems reflecting contributions. Currently, plan sponsors can contribute to the plan up to 9 Y2 months after the close of the plan year. If the sponsor is required to file by the end of the fourth month after the close of the plan year, some sponsors will be forced to file with a funding deficiency. This will cause confusion and unnecessary additional paperwork. Forcing earlier plan contributions to avoid the funding deficiency issues is too strong of a penalty for not filing electronically.

In the future, the DOL may want to consider reasonable incentives to encourage conversion to an electronic filing system. However, an earlier deadline should not be considered at this point in time. Such incentives and penalties should only be considered once electronic filing is a well-oiled process.

#### Require Each Plan Filing Form 5500 Series to Obtain a Unique EIN

While Hewitt acknowledges that plan numbers (PN) selected by administrators may at times cause identification problems, we also agree with the DOL's observation that it will be burdensome for plan administrators to obtain unique EINs for each pension and health plan required to file a 5500. If the new I-EIN system works effectively, the burden will no doubt be lessened. However, Hewitt can foresee there will often be a need to obtain an EIN quickly and on very short notice prior to a filing deadline. We are concerned whether the I-EIN system will be able to meet such a demand.

#### Separation of Certain Information from the Form 5500 Series Package

If a change is made that requires the Schedule E, Schedule SSA, and in some cases the Schedule B, to be filed directly with the IRS and not as part of the 5500 series, it will certainly provide an added burden to the filing process. Hewitt is generally not supportive of a change that adds to the complexity of the filing process, yet, we do understand the DOL benefits that may be achieved.

We will note only that the DOL should consider the fact that multiple deadlines may only serve to further complicate the reporting process. The deadlines should at least be reasonable given the information sought. In addition, if the IRS is not able to accept filings in the same electronic format as the DOL, then plan sponsors will be forced to send paper filings. Obviously, that defeats the purpose of converting to electronic reporting.

#### Conclusion

Overall, Hewitt commends the DOL for their efforts to move the Form 5500 series filings to a usable electronic system. We would like to see this happen via a Web-based, repository-type system. We think by incorporating the requested modifications and developing a pilot program for further testing and comment, EF AST2 will become an efficient, effective, and most importantly, widely utilized process.